

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA,

v.

Criminal No. 3:22cr35 (DJN)

KORTNEY THOMAS KELLEY,
Defendant.

ORDER

This matter comes before the Court on Defendant's Motion to Vacate Status Conference, Pretrial Conference, and Trial Dates Pending Resolution of Competency Examination (ECF No. 17), which the Government does not oppose. For the reasons stated on the record during today's hearing on the Motion, the Court hereby GRANTS the Motion and CANCELS the status conference, pretrial conference, and trial dates scheduled in this matter.

The Court also considers the Government's Motion for Competency Examination Under 18 U.S.C. §§ 4241(a), 4241(b), and 4247(b) (ECF No. 19). For the reasons stated on the record during today's hearing on the Motion, the Court hereby GRANTS IN PART and DENIES IN PART the Motion. Specifically, the Court DENIES the Government's request to have Defendant's competency evaluated at FCI Butner, and otherwise GRANTS the Motion as follows.

Based on the representations of Defense Counsel and the Court's own observations during arraignment on April 26, 2022, the Court FINDS, pursuant to 18 U.S.C. §§ 4241(a), 4241(b), and 4247(b), that "reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to


assist properly in his defense” exists to warrant a competency exam of Defendant and subsequent competency hearing. Accordingly, the Court hereby APPOINTS Dr. Evan Nelson to perform the examination, which the Court understands he can perform on July 5, 2022, and to submit a report detailing his findings to the Court, with copies to counsel for both sides, no later than July 22, 2022. Dr. Nelson’s reasonable costs SHALL be paid by the Government. The report SHALL be filed UNDER SEAL and only counsel for each side shall have access to it. Counsel for Defendant shall then have fourteen days to file a motion based on the report representing her position as to Defendant’s competency. The Government shall then have fourteen days to file its response, followed by six days for Counsel for Defendant to reply.

The Court hereby SCHEDULES a Competency Hearing for September 6, 2022 at 11:00 a.m.

Should Counsel for Defendant elect to have Defendant undergo an additional competency examination, such examiner SHALL confer and coordinate with Dr. Nelson before conducting any testing to ensure that practice effect does not impair Dr. Nelson’s ability to perform his examination of Defendant.

The Clerk is directed to provide a copy of this Order to all counsel of record.

It is so ORDERED.

_____/s/ 
David J. Novak
United States District Judge

Richmond, Virginia
Dated: June 2, 2022